

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

_____)	
UNION LEADER)	
CORPORATION,)	
Plaintiff,)	
)	
v.)	
)	
UNITED STATES DEPARTMENT)	
OF HOMELAND SECURITY,)	Civil No.
U.S. IMMIGRATION AND)	
CUSTOMS ENFORCEMENT)	
_____)	

COMPLAINT FOR INJUNCTIVE RELIEF

1. This action is brought pursuant to the provisions of the Freedom of Information Act, 5.U.S.C. 552 (2011), (hereinafter "FOIA"), for injunctive and other appropriate relief, seeking the release of agency records requested by Union Leader Corporation, (hereinafter "Union Leader"), from the United States Department of Homeland Security, United States Immigration and Customs Enforcement.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this action, and personal jurisdiction over the parties, pursuant to the provisions of 5 U.S.C.(a)(4)(B)(2011). Venue is proper in this district under the provisions of 5 U.S.C. 552(a)(4)(B)(2011).

PARTIES

3. The plaintiff, Union Leader, is a corporation organized and existing under the laws of the State of New Hampshire. Union Leader is a publisher of newspapers of general circulation, and other media, throughout the State of New Hampshire, and elsewhere.
4. The defendant, United States Department of Homeland Security, (hereinafter “DHS”), is an agency established in the Executive Branch of the United States Government. The U.S. Immigration and Customs Enforcement, (hereinafter “ICE”), is an investigative arm of DHS that was created by merger of the U.S. Customs Service and the Immigration and Naturalization Service in 2003. DHS is an agency within the meaning of 5 U.S.C. 552(f)(1)(2011).

FACTS

5. On or about October 12, 2011, Paul Feely, a reporter representing Union Leader, requested from ICE the names and addresses of six (6) individuals who had been arrested in New Hampshire during 2011. The individuals that were the subject of Union Leader’s request were described in a press release issued by ICE as follows:
 - male, 32, from Mexico, arrested in New Hampshire; convicted of DUI and assault; still in ICE custody;
 - male, 31 from Dominican Republic, arrested in New Hampshire, convicted of assault and shoplifting; still in ICE custody;
 - male, 63, from Bolivia, arrested as a fugitive in New Hampshire; convicted of trespassing; still in ICE custody;

- male 23, from Columbia, arrested in New Hampshire; convicted of cocaine possession; still in ICE custody;
 - male, 42, from Mexico, arrested as a fugitive in New Hampshire for illegal entry; still in ICE custody;
 - male, 36, from Dominican Republic, arrested in New Hampshire; convicted of selling cocaine;
6. ICE has possession of the documents that Union Leader seeks.
 7. On October 14, 2011, Union Leader, through counsel, again requested access to the names and addresses of the six (6) individuals who were arrested in New Hampshire, and referenced by ICE as described in paragraph 5 above.
 8. On October 14, 2011, Union Leader was denied access to the requested information on the grounds that “biographical information of individuals arrested by ICE in a particular operation are not releasable absent signed privacy waivers.”
 9. On October 27, 2011, Union Leader, through counsel, submitted a formal written request for access to the names and addresses of the six (6) individuals arrested in New Hampshire.
 10. As of this date, ICE has not responded to the October 27, 2011, letter referenced in paragraph 9 above.
 11. Union Leader has a right of access to the requested information under

5 U.S.C. 552(a)(3), and there is no valid legal basis for ICE's denial of such access. None of the exemptions to disclosure contained in the relevant law are applicable to the instant fact pattern.

WHEREFORE, the Union Leader respectfully requests that this Honorable Court:

1. schedule an expedited hearing of this matter as provided for in 28 U.S.C. 1657;
2. Order ICE to provide access to the requested documents;
3. Award Union Leader costs and reasonable attorneys' fees in this action, as provided in 5 U.S.C. 552(a)(4)(E); and,
4. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,
Union Leader Corporation,
by its attorney,

/s/ Gregory V. Sullivan
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